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Filing Date	Nov. 16, 2000
First Named Inventor	Kennon R. Copeland
Art Unit	3623
Examiner Name	Andre D. Boyce
Attorney Docket Number	065855.0121

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A33436 - 065855.0121

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

On Appeal to the Board of
Appeals and Interferences

Appellant(s) : Copeland, Kennon R. Examiner : Boyce, Andre D.
Serial No. : 09/714,387 Group Art Unit: 3623
Filed : November 16, 2000
Title : SYSTEM AND METHOD FOR ESTIMATING DAILY SALES
VOLUME

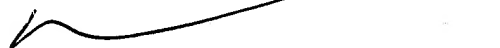
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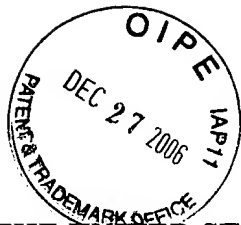
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Serial No. : 09/714,387 Group Art Unit: 3623
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VOLUME

A P P E A L B R I E F

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On August 1, 2006, Appellant filed a Notice of Appeal from the final rejection of twice-rejected claims 1-19 contained in the Office Action dated May 5, 2006 along with a Pre-Appeal Brief Request for Review. The Notice of Appeal was received by the U.S. Patent and Trademark Office on August 3, 2006. The Notice of Panel Decision from the Pre-Appeal Brief Request for Review was mailed on September 26, 2006. Appellant hereby submits, pursuant to 37 C.F.R. § 41.37, an Appeal Brief in support of the appeal of the rejections of pending claims 1-19 and a check to cover the fee for a two-month extension.

I. REAL PARTY IN INTEREST

The real party in interest is IMS Health Incorporated, 660 West Germantown Pike, Plymouth Meeting, Pennsylvania 19462 ("IMS"). IMS is the assignee of the entire right, title, and interest in the present application by way of Assignment with execution date of November 10, 2000, recorded on November 16, 2000 at Reel 011291 and Frame 0800.

II. RELATED APPEALS AND INTERFERENCES

Appellant and Appellant's legal representatives are not aware of any appeals or interferences related to the present application which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

In the May 5, 2006, Final Office Action, claims 1-4, 6-10, 12, 13 and 17 were finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,032,125 to Ando (hereinafter “Ando”) in view of U.S. Patent No. 6,609,101 to Landvater (hereinafter “Landvater”). Claims 5, 11, and 19 were finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ando in view of Landvater, in further view of U.S. Patent No. 5,420,786 to Felthausen et al. (hereinafter “Felthausen”). Claims 14 and 18 were finally rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ando in view of Landvater, and further in view of U.S. Patent No. 6,021,394 to Takahashi (hereinafter “Takahashi”). Claims 15 and 16 were finally rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ando in view of Landvater, in further view of Takahashi, and further in view of Felthausen. Appellant respectfully traverses the rejections of record, and further submits that claims 1-19 are in condition for allowance.

A copy of all pending claims is attached hereto in the Claims Appendix at page 19.

IV. STATUS OF AMENDMENTS

Subsequent to the issuance of the Final Office Action dated May 5, 2006, no further amendments to the claims have been filed by Appellant.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present application relates generally to the marketing of products and systems and methods for estimating the daily sales of a product based on a sampling of sales data. (*See, e.g., Specification, page, 1, lines 3-5; p. 4, line 17 - p. 5, line 4*).

More specifically, independent claim 1 and its corresponding dependent claims 2-6 are directed to methods for estimating sales volume of an item, comprising:

collecting sampled sales data for a reference period; [exemplary support for these limitations may be found at, *e.g., specification, p. 5, lines 13-14 and 19-21; page 6, lines 13-18; page 10, lines 3-17; Fig. 2]*

receiving said sampled sales data in a central processor; [exemplary support for these limitations may be found at, *e.g., specification, p. 7, lines 5-8; page 8, line 20 - page 9, line 23; Fig. 1]*

estimating total sales volume for the reference period by a computer program at least partially controlling said central processor; [exemplary support for these limitations may be found at, *e.g., specification, p. 7, lines 11-14; page 10, lines 12-17; Fig. 2]*

parsing the reference period into a plurality of sub-periods; [exemplary support for these limitations may be found at, *e.g., specification, p. 5, lines 21-22; page 6, lines 16-18; page 11, lines 4-5 and 19-20; Fig. 2]*

collecting sampled sales data for a current sub-period of interest, the current sub-period of interest and collection of sampled sales data being later in time than the reference period; [exemplary support for these limitations may be found at, *e.g., specification, p. 5, lines 8-10; page 5, line 22 - page 6, line 1; page 7, lines 8-11; page 10, lines 18-20; page 12, lines 3-5; Fig. 2]*

matching the current sub-period to a corresponding sub-period from said plurality of sub-periods; [exemplary support for these limitations may be found at, *e.g., specification, p. 6, lines 1-2 and 18-20; page 11, lines 7-10; Fig. 2]*

calculating a sub-period specific projection factor for the corresponding sub-period; and [exemplary support for these limitations may be found at, *e.g., specification, p. 5, lines 6-8 and 14-16; page 6, lines 1-3 and 20-22; page 7, lines 14-15; page 11, lines 5-13; Fig. 2]*

applying said projection factor to said sales data from the current sub-period of interest to determine an estimate of total sales for the current sub-period. [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-12; page 6, lines 3-5 and 22-23; page 7, lines 16-17; page 11, lines 14-18; Fig. 2]

(Claim 1).

Also, as recited in claim 7: A method of estimating daily sales volume comprising:

calculating in a central processor a day of the week specific projection factor based on reference sales history data; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 6-18; page 6, lines 1-3 and 18-22; page 7, lines 14-16; page 11, lines 5-13; Fig. 2]

sampling sales data for a current day of interest, said sampling of sales data occurring at an offset in time from the reference sales history data; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-10; page 5, line 22 - page 6, line 1; page 7, lines 8-11; page 10, lines 18-20; page 12, lines 3-5; Fig. 2]

storing said sampled sales data in a data storage device; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 7, lines 8-11; page 9, lines 7-8; Fig. 1]

scaling at least a portion of the sampled sales data for the current day of interest by the day of the week specific projection factor by a computer program at least partially controlling said central processor to determine an estimate of daily sales volume for the current day of interest. [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-12; page 6, lines 1-5 and 20-23; page 7, lines 16-17; page 14-18; Fig. 2]

(Claim 7).

Also, as recited in claim 12: A method for estimating daily sales volume of an item comprising:

collecting sampled sales data from a first plurality of sources for a current day of interest; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-10; page 5, line 22 - page 6, line 1; page 7, lines 8-11; page 10, lines 18-20; page 12, lines 3-5; Fig. 2]

collecting sampled sales data for a reference week from a second plurality of sources, said reference week being offset in time from said current day by a predetermined time period; [exemplary support for these limitations may be found

at, *e.g.*, specification, p. 5, lines 13-14 and 19-21; page 6, lines 13-18; page 10, lines 3-17; Fig. 2]

receiving said sampled sales data in a central processor; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 7, lines 5-8; page 8, line 20 - page 9, line 23; Fig. 1]

estimating total sales volume for the reference week by a computer program at least partially controlling said central processor; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 7, lines 11-14; page 10, lines 12-17; Fig. 2]

parsing the sampled sales data and estimated total sales volume for the reference week by day of the week; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 21-22; page 6, lines 16-18; page 11, lines 4-5 and 19-20; Fig. 2]

selecting the parsed sales data and estimated total sales volume data for the day of the week in the reference week that matches the day of the week of the current day of interest; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 6, lines 1-2 and 18-20; page 11, lines 7-10; Fig. 2]

calculating a day of the week specific projection factor for the current day of interest; and [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 6-8 and 14-16; page 6, lines 1-3 and 20-22; page 7, lines 14-15; page 11, lines 5-13; Fig. 2]

applying said projection factor to said sales data for the current day of interest to determine an estimate of total sales for the day of interest. [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-12; page 6, lines 3-5 and 22-23; page 7, lines 16-17; page 11, lines 14-18; Fig. 2]

(Claim 12).

Finally, as recited in claim 17: A system for estimating sales volume of an item comprising:

a processor having a communications interface for coupling to a communications network to receive sales data from a plurality of retail points of sale; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 2-4 and 8-11; page 6, lines 12-15; page 7, lines 5-8; page 8, line 21 - page 9, line 19; Fig. 1]

a data storage device coupled to said processor, said computer data device storing sales data from a plurality of retail points of sale, including sampled sales data for

a reference period and sampled sales data for a day of interest, said day of interest and collection of sampled sales data being later in time than said reference period; [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 8-11; page 5, line 13 - page 6, line 1; page 6, lines 12-16; page 7, lines 8-11; page 9, line 7 - page 10, line 20; Figs. 1 and 2]

a computer program at least partially controlling said processor to retrieve the sampled data for the reference period from said data storage device, to generate estimated total volume data for the reference period from said sampled data for the reference period, to generate a day of the week specific projection factor related to said day of interest from said estimated total sales volume data and sampled data for the reference period, and to apply the projection factor to the sampled data for the day of interest to estimate total daily sales volume for the day of interest. [exemplary support for these limitations may be found at, *e.g.*, specification, p. 5, lines 5-12; page 5, line 19 - page 6, line 5; page 6, lines 12-23; page 7, lines 11-17; page 11, lines 3-18; Figs. 1 and 2]

(Claim 17).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection for review are:

(1) the rejection of claims 1-4, 6-10, 12, 13, and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,032,125 to Ando (hereinafter “Ando”) in view of U.S. Patent No. 6,609,101 to Landvater (hereinafter “Landvater”);

(2) the rejection of claims 5, 11, and 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ando in view of Landvater, in further view of U.S. Patent No. 5,420,786 to Felthausen et al. (hereinafter “Felthausen”);

(3) the rejection of claims 14 and 18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ando in view of Landvater, in further view of U.S. Patent No. 6,021,394 to Takahashi (hereinafter “Takahashi”);

(4) the rejection of Claims 15 and 16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ando in view of Landvater, in further view of Takahashi, and further in view of Felthausen;

Appellant respectfully requests review of all rejections of record.

VII. ARGUMENT

A. The Rejections Under 35 U.S.C. § 103(a) Based On Ando In View of Landvater Should Be Reversed

Pending claims 1-4, 6-10, 12, 13, and 17 have been finally rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,032,125 to Ando (hereinafter “Ando”) in view of U.S. Patent No. 6,609,101 to Landvater (hereinafter “Landvater”). Appellant respectfully traverses these rejections.

Independent claims 1, 7, 12, and 17 are directed towards systems and methods of estimating the current daily sales of a product based on calculating a projection factor from sampled historical sales data and applying it to a sampling of current sales data. Independent claim 1 recites the use of “sampled sales data” from a prior “reference period” to first calculate a “projection factor,” which is then applied to “sampled sales data for a current sub-period of interest” to determine an estimate of “total sales for the current sub-period.” Claim 7 recites “calculating a ... projection factor based on reference history sales data” which is applied to “sampled sales data for the current day of interest” to “determine an estimate of daily sales volume for the current day of interest.” Similarly, claim 12 recites “collecting sampled sales data for a reference week” which is used to “calculat[e] a ... projection factor” that is applied to “sales data for the current day of interest to determine an estimate of total sales for the day of interest.” Finally, claim 17 recites collecting “sampled data for [a] reference period” to “generate a day of the week specific projection factor” that is applied to “sampled data for the day of interest to estimate total daily sales”

As explained in the specification, “a significant number of retail outlets are not able to or do not elect to have sales data sampled in a form needed for analysis.” (Specification,

pg. 1, line 14 - pg. 2, line 1). Therefore, an estimation of a daily sales volume of a product is determined by “taking a small sampling of current daily sales of the product and weighting this sampling using a larger pool of sales history data.” (*Id.*, pg. 8, lines. 16-19).

To establish a *prima facie* case of obviousness, three basic criteria must be met:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant’s disclosure. (*In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991))

Manual of Patent Examining Procedure, § 2143.

The Examiner has failed to meet his burden of establishing a *prima facie* case of obviousness. First, the Examiner has failed to point to any suggestion or motivation in either of the references or elsewhere that would lead a person of ordinary skill in the art to combine the disclosures of Ando and Landvater, and, even if there were a suggestion to combine, a person of ordinary skill in the art would not have a reasonable expectation of success in doing so. Second, even if such a combination is made, neither Ando nor Landvater disclose or suggest estimating the total daily sales of a product by using a projection factor derived from sampled historical sales data as applied to a sampling of current sales data. Appellant respectfully submits that the rejections of record should be reversed.

1. Claims 1-4, 6-10, 12, 13, and 17 Are Not Unpatentable Because There Is No Motivation To Combine Ando With Landvater, And A Person of Ordinary Skill Would Not Have A Reasonable Expectation of Success In Doing So.

Ando cannot be properly combined with Landvater as there is no motivation to combine those references. Ando is directed to techniques for forecasting the demand for products based on the “fluctuation trend” of sales results. (Ando, col. 1, line 66 - col. 2, line 11).

Ando describes a neural network that runs multiple forecasting models multiple times for each product to allow the system to “learn” the best model. (Ando, col. 4, lines. 12-36). By “feeding the sales results in a certain period, the neural network learns so as to obtain an output close to the sales results of a certain later period, that is, an output suited to the fluctuation trend of sales results...” (*Id.*, col. 2, lines. 20-24). The neural network utilizes the sales results of the previous 13 months, dating back from the “learning point,” including the sales results of one month of the same period of the previous year to optimize the computer model. (*Id.*, col. 2, lines. 49-52).

Landvater is directed to a system for forecasting product sales and projected replenishment shipments for a retail store supply chain “using product sales history records generated by retail stores in the supply chain.” (Landvater, col. 4, lines. 17-21). In contrast to Ando, Landvater is designed “to permit extremely large numbers of products to be planned on relatively inexpensive computers.” (Landvater, col. 10, lines. 20-22). Accordingly, the system is designed to be run on a computer having “two X86 instruction set microprocessors,” run at “no more than an average of 60% utilization of said two microprocessors,” for a duration of “less than 20 minutes.” (Landvater, col. 4, lines 43-52). One of ordinary skill in the art would not be motivated to combine the repetitive learning neural-network method and system of Ando with the computationally-efficient streamlined system of Landvater.

The Examiner has failed to point to any suggestion or motivation in either of the references or elsewhere that would lead to such a combination. Further, one of ordinary skill in the art would not have a reasonable expectation of success in combining the repetitive method of Ando with the simplified system of Landvater. Reasonable expectation for success is assessed from the perspective of the person of ordinary skill in the art. *Life Technologies, Inc. v. Clontech*

Laboratories, Inc., 224 F.3d 1320 (Fed. Cir. 2000). Whether or not the inventors were ultimately successful in doing so is irrelevant. *Id.* A person of ordinary skill in the art would not have a reasonable expectation of success in combining Ando with Landvater because their methods directly contradict each other. Accordingly, such a combination is not properly made.

2. Claims 1-4, 6-10, 12, 13, and 17 Are Not Unpatentable Because Neither Ando Nor Landvater Disclose Or Suggest Collecting “Sampled Sales Data” For A “Reference Period” And Estimating “Total Sales Volume” For The “Reference Period.”

Appellant’s claim 1 recites the use of “sampled sales data for a reference period” to “estimate total sales volume for the reference period.” Independent claims 12 and 17 contain similar recitations. Independent claim 7 recites “calculating in a central processor a day of the week specific projection factor based on reference sales history data.” This recitation encompasses the steps of sampling sales data for a reference period and estimating total sales volume for the reference period.

In contrast, Ando discloses the use of “13-month sales results by a product ... at the retail shop” as reference data for forecasting. (*See* Ando, col. 4, lines. 34-42). Ando does not disclose or suggest the use of “sampled sales data” from a reference period to estimate the “total sales volume for the reference period,” as recited in independent claims 1, 7, 12, and 17. Rather, total sales for a prior period are used as inputs into a computer model to forecast the total sales for a certain later period. (*Id.*, col. 5, lines. 41-44). No estimation is necessary.

Even assuming *arguendo* that it may be properly combined with Ando, Landvater does not disclose or suggest the use of “sampled sales data” from a reference period to estimate “total sales volume for the reference period,” and thus cannot remedy the deficiency of Ando outlined above. Landvater discloses “a forecasting system that determines projected sales of a

plurality of products for a retail store in a supply chain by using the product sales history records for said retail store.” (*Id.*, col. 4, lines. 21-24; *see* claims 1, 30, 48, 53). Landvater further discloses determining “projected sales of a first plurality of products for a retail store ... using the product sales history records for said retail store.” (Landvater, claims 1, 30, 48, and 53). Again, no estimation of total sales volume for the reference period is necessary because the system of Landvater is designed to be implemented within a single retail store or chain. The actual total sales volume for the reference period can therefore be used. As such, the disclosure of Landvater is limited to the use of historical sales data for a particular store to forecast sales data for that store. Accordingly, the proposed combination of Ando and Landvater cannot render obvious independent claims 1, 7, 12, and 17.

3. Claims 1-4, 6-10, 12, 13, And 17 Are Also Not Unpatentable Because Neither Ando Nor Landvater Disclose Or Suggest The Use Of “Sampled Sales Data For A Current Sub-Period Of Interest” To “Determine An Estimate Of Total Sales For The Current Sub-Period.”

Appellant’s claim 1 recites the use of “sampled sales data for a current sub-period of interest” to “determine an estimate of total sales for the current sub-period.” Independent claims 7, 12, and 17 contain similar recitations.

As disclosed in the specification, e.g., at p. 4, lines 8-12, it is difficult to obtain “real time” sales data at the close of business each day from a large number of retailers. Therefore, daily reporting data for the day of interest is collected from a small number of stores. (Specification, p. 10, lines 18-20). A “projection factor” calculated for the day of interest from the previously-collected reference period sampled sales data is then used to scale the “real time” sales data so that the total daily volume of the product may be calculated. (*Id.*, p. 11, lines 14-18). No such arrangement is disclosed or suggested by Ando or Landvater.

As previously discussed, Ando discloses the use of “13-month sales results by a product ... at the retail shop” as a basis for forecasting future sales. (*See* Ando, col. 4, lines. 34-42).

Although Ando discloses that “the forecasting value ... obtained by demand forecasting conducted every week is compared with the actual sales results value of every week,” it does not disclose or suggest the use of “sampled sales data” scaled by a projection factor to calculate the current total sales, as recited in independent claims 1, 7, 12, and 17. (*Id.*, col. 5, lines. 41-44). Rather, Ando discloses a system wherein all sales for a prior period are input into a computer model to forecast the total sales for a certain later period.

Even assuming *arguendo* that it may be properly combined with Ando, Landvater does not disclose or suggest the use of “sampled sales data” to calculate the current total sales, and thus cannot remedy the deficiency of Ando outlined above. As previously discussed, Landvater discloses “a forecasting system that determines projected sales of a plurality of products for a retail store in a supply chain by using the product sales history records for said retail store.” (*Id.*, col. 4, lines. 21-24; *see* claims 1, 30, 48, 53). Therefore, the disclosure of Landvater is limited to the use of all sales for a certain reference time period for a particular store to forecast future sales for that store, rather than using “sampled sales data for a *current* sub-period of interest” to “determine an estimate of *total* sales for the *current* sub-period,” as in claim 1 (emphasis added).

Applicant’s claims 1, 7, 12, and 17 do not involve the use of past total sales volume to predict future total sales volume, as in Ando and Landvater. Rather, the current total sales volume is estimated from a *sample* of the current sales. In this manner, real-time sales data that is only available from particular stores is used to estimate the total sales volume for all stores. (*See Id.*, pg. 11, lines. 14-18).

Accordingly, independent claims 1, 7, 12, and 17 are not obvious over Ando in view of Landvater. Claims 2-4, 6, 8-10, and 13 depend from either claims 1, 7, or 12, and are not obvious at least for the reasons discussed above regarding claims 1, 7, and 12. For at least these reasons, the rejections of claims 1-4, 6-10, 12, 13, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Ando in view of Landvater should be reversed.

B. The Rejections Under 35 U.S.C. § 103(a) Based On Ando In View Of Landvater In Further view of Felthausen And/Or Takahashi Should Be Reversed.


Claims 5, 11, 14-16, and 18-19 were finally rejected under 35 U.S.C. § 103 (a) as being unpatentable over Ando in view of Landvater, and further in view of Felthausen and/or Takahashi. Neither Felthausen nor Takahashi remedy the deficiencies of Ando and Landvater outlined above. Therefore, the rejections of dependent claims 5, 11, 14-16, and 18-19 as being obvious over Ando in view of Landvater in further view of Felthausen and/or Takahashi should be reversed.

C. Conclusion

Accordingly, the cited references, whether alone or in combination, fail to anticipate or render unpatentable the independent claims of the present invention. Reversal of the Examiner's rejections of the claims is therefore respectfully requested.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

The following claims are the subject of this appeal:

Listing of Claims:

1. (rejected) A method for estimating sales volume of an item comprising:
collecting sampled sales data for a reference period;
receiving said sampled sales data in a central processor;
estimating total sales volume for the reference period by a computer program at least partially controlling said central processor;
parsing the reference period into a plurality of sub-periods;
collecting sampled sales data for a current sub-period of interest, the current sub-period of interest and collection of sampled sales data being later in time than the reference period;
matching the current sub-period to a corresponding sub-period from said plurality of sub-periods;
calculating a sub-period specific projection factor for the corresponding sub-period; and
applying said projection factor to said sales data from the current sub-period of interest to determine an estimate of total sales for the current sub-period.
2. (rejected) The method for estimating sales volume of claim 1, wherein the sub-periods are days of the week.
3. (rejected) The method for estimating sales volume of claim 1, wherein the reference period is one week.

4. (rejected) The method for estimating sales volume of claim 3, wherein the current sub-period is a certain day of the week, the sub-periods of the reference period are days of the week and wherein the corresponding sub-period is the day of the week matching the certain day.
5. (rejected) The method for estimating sales volume of claim 4, wherein the item is a pharmaceutical product.
6. (rejected) The method for estimating sales volume of claim 1, wherein the sample size for the reference period is larger than the sample size for the current sub-period of interest.
7. (rejected) A method of estimating daily sales volume comprising:
 - calculating in a central processor a day of the week specific projection factor based on reference sales history data;
 - sampling sales data for a current day of interest, said sampling of sales data occurring at an offset in time from the reference sales history data;
 - storing said sampled sales data in a data storage device;
 - scaling at least a portion of the sampled sales data for the current day of interest by the day of the week specific projection factor by a computer program at least partially controlling said central processor to determine an estimate of daily sales volume for the current day of interest.
8. (rejected) The method of estimating daily sales volume of claim 7, wherein the reference sales history data includes sampled sales data for a reference week prior to the day of interest.
9. (rejected) The method of estimating daily sales volume of claim 8, wherein the step of calculating the day of the week specific projection factor includes generating daily estimated sales volume for at least one day in the reference week.

10. (rejected) The method of estimating daily sales volume of claim 8, wherein the at least a portion of sampled sales data for the day of interest is the sampled data from sources which have also provided data for the reference week.
11. (rejected) The method of estimating daily sales volume of claim 10, wherein the sources are retail pharmacies.
12. (rejected) A method for estimating daily sales volume of an item comprising:
 - collecting sampled sales data from a first plurality of sources for a current day of interest;
 - collecting sampled sales data for a reference week from a second plurality of sources, said reference week being offset in time from said current day by a predetermined time period;
 - receiving said sampled sales data in a central processor;
 - estimating total sales volume for the reference week by a computer program at least partially controlling said central processor;
 - parsing the sampled sales data and estimated total sales volume for the reference week by day of the week;
 - selecting the parsed sales data and estimated total sales volume data for the day of the week in the reference week that matches the day of the week of the current day of interest;
 - calculating a day of the week specific projection factor for the current day of interest; and
 - applying said projection factor to said sales data for the current day of interest to determine an estimate of total sales for the day of interest.
13. (rejected) The method for estimating sales volume of claim 12, wherein the quantity of sampled sales data for the current day of interest is smaller than the quantity of sampled sales data for the corresponding day of the week in the reference week.

14. (rejected) The method for estimating sales volume of claim 12, further comprising the step of comparing said first plurality of sources to said second plurality of sources to determine the intersection of said sources and wherein the step of determining the day of the week specific projection factor applies sample data from said intersection of sources.

15. (rejected) The method for estimating sales volume of claim 14, wherein the sources are retail pharmacies.

16. (rejected) The method for estimating sales volume of claim 15, wherein the item is a pharmaceutical product.

17. (rejected) A system for estimating sales volume of an item comprising:

a processor having a communications interface for coupling to a communications network to receive sales data from a plurality of retail points of sale;

a data storage device coupled to said processor, said computer data device storing sales data from a plurality of retail points of sale, including sampled sales data for a reference period and sampled sales data for a day of interest, said day of interest and collection of sampled sales data being later in time than said reference period;

a computer program at least partially controlling said processor to retrieve the sampled data for the reference period from said data storage device, to generate estimated total volume data for the reference period from said sampled data for the reference period, to generate a day of the week specific projection factor related to said day of interest from said estimated total sales volume data and sampled data for the reference period, and to apply the projection factor to the sampled data for the day of interest to estimate total daily sales volume for the day of interest.

18. (rejected) The system for estimating sales volume according to claim 17, wherein the sampled data in said data storage device includes an indication of the retail point of sale source and wherein the sampled data for the reference period is provided from a first plurality of sources and the sampled data for the day of interest is provided from a second plurality of sources, and said computer program directs the processor to determine the intersection of the first and second sources and to apply the data from said intersection to determine said projection factor.

19. (rejected) The system for estimating sales volume according to claim 18, wherein the sales data relates to pharmaceutical sales

IX. EVIDENCE APPENDIX

None.

X, **RELATED PROCEEDINGS APPENDIX**

None.